

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,)
v.)
Plaintiff,)
GLENN RANDALL FERGUSON,)
Defendant.)
Case No. CR-17-17-Raw

ORDER

This order memorializes the court's ruling on defendant's second motion in limine. The motion sought to restrict cross-examination of Dr. Grundy by the government. From the bench during trial, the court cited a government motion in *United States v. Hassoun*, 2007 WL 2349140 (S.D.Fla.2007), which made the argument that “[w]hile an expert may base his or her in-court testimony on inadmissible evidence, *see* Fed. R. Evid. 703, it does not follow that a . . . lawyer may use cross-examination [to] put inadmissible evidence before the jury, . . . That is so because the expert is available for cross-examination[.]” This court found that argument persuasive. In addition, when the government seeks to introduce such evidence in a criminal case, the Confrontation Clause may be implicated. *See United States v. Kearns*, 863 F.3d 1299, 1305-06 (10th Cir.2017).

It is the order of the court that the defendant's second motion in limine (#123) is hereby granted.

ORDERED THIS 13th DAY OF JANUARY, 2020.



RONALD A. WHITE
UNITED STATES DISTRICT JUDGE